



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Select, Inc.  
**File:** B-246167  
**Date:** October 24, 1991

David D. Stewart for the protester,  
Catherine M. Evans, Esq., and David Ashen, Esq., Office of  
the General Counsel, GAO, participated in the preparation of  
the decision.

### DIGEST

Protest of agency's decision to request best and final offers (BAFO) and to split award among low bidders is dismissed as untimely where not filed prior to the closing date for receipt of BAFOs.

### DECISION

Select, Inc. protests the Department of Agriculture, Forest Service's decision to request best and final offers (BAFO) and to split award among the low bidders under solicitation No. R6-3-91-79C.

Under our Bid Protest Regulations, improprieties incorporated into a solicitation must be protested prior to the next closing date for receipt of proposals following the incorporation, 4 C.F.R. § 21.2(a)(1) (1991), as amended by 56 Fed. Reg. 3759 (1991). Thus, a protest against an agency's request for BAFOs, or of solicitation terms incorporated in the BAFO request, must be filed prior to the closing date for BAFOs. See Pan Am World Servs., Inc. et al., B-231840 et al., Nov. 7, 1988, 88-2 CPD ¶ 446. Here, the Forest Service requested BAFOs by September 26, 1991; the request stated that the agency may award all or part of the items depending upon the funds available. Since Select did not file its protest with our Office until October 9, the protest is untimely.

The protest is dismissed.

A handwritten signature in cursive script, reading "John M. Melody", is written over the typed name.

John M. Melody  
Assistant General Counsel